THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.27093 OF 2006

05th JANUARY, 2007.

Between: Avinash Kumar Shavli .. petitioner.

And

The Regional Passport Office, Hyderabad,
Rep. by its Regional Passport Officer,
Near Clock tower, Secunderabad. .. Respondent.

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.27093 OF 2006

ORDER:

The petitioner herein was issued a passport bearing No.VJ61869, dated 14-3-1984 while he was 3-year-old. Subsequently, it was found that his date of birth was wrongly mentioned in the said passport as 26-2-1980 instead of 26-2-1981. Similarly his surname was wrongly spelt as 'SHAVILI' instead of 'SHAVLI'. However, since the said passport stood expired, the petitioner made an application on 10-1-2006 for fresh passport with correct entries as to his date of birth as well as surname. The said request of the petitioner was not considered by the respondent on the ground that the entries in the passport dated 14-3-1984 do not tally. It was also expressed by the respondent that a declaratory decree from the Civil Court is necessary for correcting the entries in the passport. Aggrieved by the said action, this writ petition is filed.

I have heard the learned Counsel for the petitioner and perused the material on record.

Despite service of notice, the respondent did not chose to appear and no counter-affidavit is filed.

It is to be noted that the Government of India, Ministry of External Affairs, issued circular dated 18.04.2001, which reads as under:

> (a) Where an applicant is seeking rectification/Correction of a mistake in the entry of date of birth/place of birth in the passport, PIA (Passport Issuing Authority) may after verifying/satisfying himself, affect the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.
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> (b) Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment, PIA may effect the necessary amendment in the passport without

insisting on a Court Order. As per the provisions of Section 21 of the General clauses Act, 1997, a competent authority issuing a certificate could also make necessary amendments to the same.

(c) Where the initial entry has been made on the basis of a supportive document issued by one competent authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority i.e., municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent Court of jurisdiction, certifying the valid date of birth/place of birth."

On a perusal of the above Circular, it is clear that an order from a competent Court certifying the valid date of birth/place of birth is required only where Clause (c) of the Circular is attracted. Clause (c), extracted above, provides for a situation where the initial entry was made on the basis of a supportive document issued by one competent authority and the correction of the entry is requested by the applicant subsequently on the basis of a certificate issued by another competent authority resulting in conflicting sources of valid proof.

In the case on hand, in respect of the corrections sought to be made in the fresh passport the petitioner has produced the birth certificate from the Registrar of Births & Deaths and also the Secondary School Certificate. In both the documents, the date of birth of the petitioner was shown as 22-6-1981 and the surname was spelt as 'SHAVLI'. The specific case of the petitioner is that even while obtaining the passport dated 14-3-1984 the Certificate from the Registrar of Births & Deaths in which his date of birth was shown as 26-2-1981 was produced, but inadvertently the office of the respondent had wrongly entered the date of birth of the petitioner as 26-2-1980 and the surname was wrongly spelt. The said plea of the petitioner is neither contradicted by the respondents nor any material is placed before this Court to show that the documents produced initially by the petitioner were emanated from a conflicting source.

In the circumstances, I am of the opinion that clause-(c) of the Circular dated 18-4-2001 is not attracted and consequently proof of

declaratory decree from the Civil Court is not necessary. As rightly contended by the learned Counsel for the petitioner relying upon the decision in **Asra Begum v. Regional Passport Officer, Secunderabad**[1] the correction sought to be made are only technical corrections which fall under clause-(a) of the Circular dated 18-4-2001.

Accordingly, the Writ Petition is disposed of with a direction to the respondent to consider the application of the petitioner dated 10-1-2006 for fresh passport on the basis of the supportive documents submitted by the petitioner without insisting on any declaratory decree from the Civil Court. Such exercise shall be completed as expeditiously as possible preferably within a period of two weeks from the date of receipt of this order.

The writ petition is accordingly, disposed of. No costs.

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(G. ROHINI, J.)

05-01-2007
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Note:- CC by tomorrow.

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[1] 2004(6) ALD 360.